

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACQUELINE SMITH,

Plaintiff,

v.

CO/OP OPTICAL SERVICES, INC.,
a Michigan non-profit corporation,

Defendant.

Case No.: 2:10-cv-13470

Honorable Patrick J. Duggan

Magistrate Judge Mark A. Randon

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DEFENDANT'S EX PARTE MOTION FOR LEAVE TO EXCEED PAGE LIMIT

NOW COMES Defendant, Cooperative Optical Services, Inc. (incorrectly identified as Co/Op Optical Services, Inc.), by and through its attorneys, Plunkett Cooney, and requests leave to file its Brief in Support of its Motion for Summary Judgment and/or to Dismiss ("Brief") in excess of the twenty (20) page limit, for the following reasons:

1. This action arises out of Plaintiff's filing of her original Complaint on August, 25, 2010.
2. Plaintiff's Complaint contains four separate claims:
 - a. Retaliation under the Family & Medical Leave Act,
 - b. Interference under the Family & Medical Leave Act,
 - c. Gender discrimination under the Elliott-Larsen Civil Rights Act, and

d. Defamation.

3. Each claim contains extensive and complex legal issues and requires consideration of deposition testimony from nine individuals, including seven decisionmakers and Plaintiff, with deposition testimony submitted with the Brief totaling approximately 365 pages (the total number of depositions taken in the case was thirteen, for a total of more than 1,400 pages of testimony).

4. Defendant moves for summary judgment and/or dismissal on all of Plaintiff's claims.

5. Local Rule 7.1(c)(3)(A) limits to twenty (20) pages the "text of a brief supporting a motion" but permits a "party seeking to file a longer brief" the opportunity to "apply ex parte in writing setting forth the reasons."

6. Defendant has attempted to limit the pages of its Brief and has reduced it as much as possible without sacrificing clarity and/or its ability to address the lack of merit in Plaintiff's claims.

7. However, due to the number of claims, the complexity of each, and the amount of testimony, issues and elements involved in each claim, Defendant has been unable to reduce the number of pages to twenty (20).

8. The arguments contained in Defendant's Brief must be fully addressed by the Court, and any further reduction in the length of Defendant's Brief will not allow Defendant to accurately present the facts and applicable law and address the issues to the degree necessary for the Court to make a reasoned decision on Plaintiff's Motion for Summary Judgment and/or to Dismiss and supporting Brief.

9. In an effort to promote judicial economy, and to avoid burdening the Court with

multiple motions for summary judgment and/or dismissal (which would presumably produce an increased number of response briefs and reply briefs), Defendant requests this Court extend the page limit of Defendant's Motion for Summary Judgment and/or to Dismiss and supporting Brief to correspond with the number of pages contained in Defendant's Motion and Brief, pursuant to Local Rule 7.1(c)(3)(A).

10. Concurrence to this motion was sought on March 10, 2011 and not obtained.

WHEREFORE, Defendant respectfully requests that this Honorable Court grant its Ex Parte Motion for Leave to Exceed Page Limit.

Respectfully submitted,

/s/ Mary P. Cauley

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**BRIEF IN SUPPORT OF DEFENDANT'S EX PARTE MOTION FOR LEAVE TO
EXCEED PAGE LIMIT**

NOW COMES Defendant, Cooperative Optical Services, Inc.(incorrectly identified as Co/Op Optical Services, Inc.), by and through its attorneys, Plunkett Cooney, and for its Brief in Support of its Ex Parte Motion for Leave to Exceed Page Limit ("Ex Parte Motion"), Defendant relies on the facts presented in its Ex Parte Motion.

WHEREFORE, Defendant respectfully requests that this Honorable Court grant its Ex Parte Motion for Leave to Exceed Page Limit.

Respectfully submitted,

/s/ Mary P. Cauley
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CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2011, I electronically filed the foregoing **Defendant's Ex Parte Motion for Leave to Exceed Page Limit** and this Certificate of Service with the Clerk of the Court using the ECF filing system which will send notification of such filing to all parties of record. I hereby certify that I have mailed by United States Postal Service the paper to any non-ECF filing participants:

Respectfully submitted,

PLUNKETT COONEY

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